

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NICK PEARSON, FRANCISCO PADILLA,  
CECILIA LINARES, AUGUSTINA BLANCO,  
ABEL GONZALEZ, and RICHARD JENNINGS,  
On Behalf of Themselves and All Others  
Similarly Situated,

Plaintiffs,

v.

NBTY, INC., a Delaware corporation; and  
REXALL SUNDOWN, INC., a Florida  
Corporation; and TARGET CORPORATION, a  
Minnesota Corporation,

Defendants.

Case No.: 11 CV 07972

CLASS ACTION

**Judge James B. Zagel**

**DOCKETING STATEMENT**

Pursuant to Circuit Rules 3(c)(1) and 28(a) of the United States Court of Appeals for the Seventh Circuit, Plaintiff, Richard Jennings, hereby provides the following Docketing Statement to accompany his Notice of Appeal filed on February 4, 2014:

1. Basis of Jurisdiction in the District Court.

The District Court had jurisdiction pursuant to 28 U.S.C. §1332(d) because this is a class action in which the amount in controversy exceeds the sum of \$5,000,000, exclusive of interest and costs, which class action includes more than 100 class members, and some of the members of the Class are citizens of a state different from the defendants. Plaintiff Nick Pearson is a citizen of the State of Illinois; plaintiff Francisco Padilla is a citizen of the State of Illinois; plaintiff Cecilia Linares is a citizen of the State of California; plaintiff Augustina Blanco is a citizen of the State of California; plaintiff Abel Gonzalez is a citizen of the State of California; and plaintiff Richard Jennings is a citizen of the State of Massachusetts. Defendant NBTY, Inc. is a

Delaware corporation with its principal place of business in the State of New York; defendant Rexall Sundown, Inc. is a Florida corporation with its principal place of business in the State of New York; and defendant Target Corporation is a Minnesota corporation with its principal place of business in the State of Minnesota.

2. Basis of Jurisdiction of the Seventh Circuit.

The United States Court of Appeals for the Seventh Circuit has jurisdiction over this matter pursuant to 28 U.S.C. §1291. The District Court entered a Final Judgment and Order on January 22, 2014 which disposed of all claims and defenses of the parties. Plaintiff, Richard Jennings, has timely filed his notice of appeal pursuant to Federal Rule of Appellate Procedure 4(a)(1) and/or 4(3).

3. Prior Appellate Proceedings.

Plaintiff, Richard Jennings', appeal is related to the following:

a. An appeal by Objector, Theodore H. Frank, that was filed in this action. A Notice of Appeal was filed on January 29, 2014.

b. An appeal by plaintiffs, Nick Pearson, Francisco Padilla, Cecelia Linares, Augustina Blanco and Abel Gonzalez. A Notice of Appeal was filed on February 3, 2014.

4. Counsel of Record.

Counsel of record for plaintiff/appellant, Richard Jennings, before the United States Court of Appeals for the Seventh Circuit will be:

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Dated: February 4, 2013

By: /s/ Peter N. Freiberg  
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*Attorneys for Plaintiff Richard Jennings*

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2014, a true and correct copy of the following document was electronically filed and served on all counsel of record in this action who are deemed to have consented to electronic service via the Court's CM/ECF system:

#### **Docketing Statement.**

I also certify that the foregoing document is being served by U.S. Mail this day on all counsel of record or *pro se* parties identified below who are not authorized to receive electronically Notices of Electronic Filing.

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